IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

Bail Appl..No. 4274 of 2007()

CRIME NO. 220/07 OF CHENGANNUR POLICE STATION

PETITIONERS: ACCCUSED 1-3:

---

1. K.S.SUNIL, S/O.SREEDHARAN UNNITHAN,
   KIZHAKKEDATH, THIRUVANVANDOOR P.O.

2. G.R.RAJESH, S/O.RAJAPPAN NAIR,
   GURUNATHAN PARAMPIL, THIRUVANAVANDOOR P.O.

3. DILEEP.G., S/O.GOPINATHA PANICKER,
   EDAKKALLIL VEETIL, THIRUVANVANDOOR P.O.

BY ADV. SRI.P.HARIDAS

RESPONDENTS: STATE /COMPLAINANT:

---

1. STATE OF KERALA REPRESENTED BY PUBLIC
   PROSECUTOR, HIGH COURT OF KERALA.

2. SUB INSPECTOR OF POLICE,
   CHENGANNUR POLICE STATION.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

B.A.No. 4274 of 2007

- -

Dated this the 13th day of July, 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 1 to 3. They face allegations, inter alia, under Sections 3(1) and 3(2) of the PDPP Act. The crux of the allegations is that on 21.4.2007 at about 12.30 p.m. the petitioners were members of an unlawful assembly of persons, who allegedly went to the office of Chengannur Municipality and indulged in wanton acts of violence and destruction of public property. The F.I. statement was lodged and F.I.R. was registered on the next day at 10 a.m. No accused is named in the F.I.R. There is an averment in the F.I.R. that the persons involved in the commission of the crime are activists of R.S.S., who are known to the informant and who can be identified by him. Investigation proceeded. The petitioners have now been arrayed as accused 1 to 3. Altogether 10 accused persons had allegedly taken part in the incident. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that there has been delay in lodging of the F.I.R. The petitioners are not named

in the F.I.R. and they have not been arrested so far. In these circumstances it is evident that the petitioners are being arrayed now only because they are activists of R.S.S./B.J.P. In these circumstances anticipatory bail may be granted to the petitioners, it is prayed.

3. The application is opposed by the learned Prosecutor. He submits that the indications available now and the materials collected convincingly point to the complicity of the petitioners. There are no circumstances justifying invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C. in favour of the petitioners. The allegations are serious. In a case like this, the petitioners may not be permitted to arm themselves with an order of anticipatory bail. They have to resort to the ordinary and normal procedure of appearing before the Investigator or the Magistrate. They must then seek regular bail.

4. I find merit in the opposition by the learned Prosecutor. I am satisfied that this is a fit case where the petitioners must resort to the ordinary and regular procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioners appear before the Investigating Officer or the learned Magistrate and apply for regular bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

tm